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# CONCENTRATED ANIMAL FEEDING OPERATIONS IN TEXAS

## Texas Natural Resource Conservation Commission Subchapter K Animal Waste Management Rules

### *Introduction*

The Texas Water Code (TWC) and the Texas Clean Air Act (TCAA) authorize the Texas Natural Resource Conservation Commission (TNRCC) to regulate the management of livestock and poultry waste from concentrated animal feeding operations (CAFOs) in Texas. The TNRCC rules are found in Title 30 of the Texas Administrative Code (TAC) -- Chapter 321, Subchapter B, Commercial Livestock and Poultry Production Operations; Subchapter K, Concentrated Animal Feeding Operations; and Chapter 116 (Regulation VI), Control of Air Pollution by Permits for New Construction or Modification.

The TNRCC program works with CAFO operators in the selection, implementation, and operation of environmentally sound best management practices (BMPs) and related technologies for collecting and utilizing animal wastes. All CAFO operators are required to collect, store and utilize waste and wastewater and control dust and odor in a manner to conform with good agricultural management practices. Waste and wastewater must be properly applied for beneficial reuse on agricultural cropland.

Existing facilities which held a TNRCC permit or were authorized by rule prior to and including July 13, 1995 will continue to be regulated under Subchapter B and Chapter 116 water and air quality regulations, respectively. Existing facilities may obtain, renew or modify a permit in accordance with Subchapter B or Chapter 116. Existing facilities authorized under Subchapter B and/or Chapter 116 have the option of transferring authorization to and complying with Subchapter K.

### *What Are Concentrated Animal Feeding Operations (CAFOs)?*

A CAFO is defined in Subchapter K as any operation that stables, confines, feeds or maintains for a total of 45 days or more in any 12-month period more than the number of animals specified in any of the following categories or any other operation that the TNRCC executive director designates as a significant contributor of pollution. This definition is consistent with the US Environmental Protection Agency (USEPA) Region VI General Permit.

- **Group A -- Facilities with greater than 1000 animal units:**
  - 1,000 slaughter or feeder cattle;
  - 700 mature dairy cattle (whether milkers or dry cows);
  - 2,500 swine (weighing over 55 pounds each);
  - 500 horses;
  - 10,000 sheep;
  - 55,000 turkeys;
  - 100,000 laying hens or broilers (when facility has continuous flow watering system);
  - 30,000 laying hens or broilers (when facility has a liquid waste handling system);
  - 5,000 ducks;
  - 1,000 animal units from a combination of slaughter steers and heifers, mature dairy cattle, swine (over 55 pounds) and sheep.

A CAFO is also defined in Subchapter K as any operation smaller than those identified above that discharge pollutants into the waters in the state, either directly or through a man-made ditch, flushing system or other similar man-made device and that stables, confines, feeds or maintains for a total of 45 days or more in any 12-month period more than the numbers of animals in the following categories.

- **Group B -- Facilities with more than 300 but less than or equal to 1000 animal units:**
  1. 300 slaughter or feeder cattle;
  2. 200 mature dairy cattle (whether milkers or dry cows);
  3. 750 swine (weighing over 55 pounds each);
  4. 150 horses;
  5. 3,000 sheep;
  6. 16,000 turkeys;
  7. 30,000 laying hens or broilers (when facility has unlimited continuous flow watering system);
  8. 9,000 laying hens or broilers (when facility has a liquid waste handling system);
  9. 1,500 ducks;
  10. 300 animal units from combination of slaughter steers and heifers, mature dairy cattle, swine (weighing over 55 pounds each), and sheep.

Poultry facilities that have no discharge to waters in the state normally are not considered concentrated animal feeding operations. However, poultry facilities that use a liquid waste handling system or stockpile litter near watercourses or dispose of litter on land such that stormwater runoff or flooding can wash it into surface water or ground water may be considered concentrated animal feeding operations.

### ***What Are The TNRCC Policies And Regulations Affecting CAFOs?***

It is the policy of the TNRCC that there shall be no discharge from CAFOs of waste

and/or wastewater except during rainfall events greater than or equal to a 25-year/24-hour event and that these facilities operate in a manner that prevents the occurrence of nuisance conditions relating to air pollution.

“Group A” CAFOs must obtain from TNRCC a written authorization for water quality under Subchapter K and air quality when the facility cannot meet Standard Exemption No. 62 (relating to exemption from air permits) described below. New facilities that desire to operate after July 13, 1995 are regulated under Subchapter K.

- **TNRCC Standard Exemption List - 30 TAC Section 116.211, Control of Air Pollution By Permits For New Construction or Modification.**

No. 62. Animal feeding operations which confine animals in numbers specified below and any associated on-site feed handling and/or feed milling operations which satisfy the following conditions:

- (a) Operations designed to feed no more than:
  - (1) 1,000 cattle,
  - (2) 1,000 horses and mules,
  - (3) 2,500 swine weighing more than 55 pounds,
  - (4) 10,000 sheep and goats, or
  - (5) 1,000 animal equivalents.

Where a combination of cattle, swine weighing over 55 pounds, horses and mules, or sheep and goats are present, animal equivalents shall be calculated by adding the following numbers:

$$\begin{array}{r} 1.0 \times (\text{number of cattle}) \\ + 0.4 \times (\text{number of swine weighing over 55 pounds}) \\ + 2.0 \times (\text{number of horses and mules}) \\ + 0.1 \times (\text{number of sheep and goats}) \end{array}$$

Total = \_\_\_\_\_ animal equivalents

- (b) In determining the number of animals or animal equivalents, mothers with nursing young shall be counted as a single animal while the young are nursing. Once removed from the mother, the young animals shall be counted when determining the number of animals or animal equivalents. Swine weighing 55 pounds or less shall be allowed, but not counted in determining the number of animals or animal equivalents. Animals on pasture are not considered as part of the animal feeding operation.
- (c) Operations designed to feed no more than 55,000 turkeys or other birds, excluding ducks, concentrated on open lots.

- (d) Operations designed to feed no more than 5,000 ducks.
- (e) All caged poultry operations designed to feed no more than 30,000 birds.
- (f) All housed poultry operations when wood shavings or similar material is used as litter.
- (g) All caged poultry operations designed to feed more than 30,000 birds when a dry manure storage and handling system is used and when located at least 1/4 mile from any recreational area or residence or other structure not occupied or used solely by the owner of the egg laying or caged pullet operation. Before construction of the caged laying and caged pullet operations begins, written site approval shall be received from the Executive Director of the TNRCC and the facility shall be registered with the TNRCC Office of Air Quality using Form PI-7.
- (h) For the associated on-site feed handling and/or feed milling operations to be covered under this exemption, no products from the feed handling and or feed milling shall be shipped off-site.

Operators of new facilities to be located inside the TNRCC's Dairy Outreach Program Areas (DOPAs) which include Bosque, Comanche, Erath, Hamilton, Hopkins, Johnson, Rains, and Wood counties and that will operate at an animal capacity greater than the head limitations under "Group B", must comply with one of the following requirements.

- File an application and obtain written authorization; or
- Register the facility prior to beginning operation, then complete an eight-hour course on animal waste management within 12 months after beginning operation and complete an additional eight hours of training in animal waste management for each subsequent 24- month period and conduct an independent third-party audit every five years beginning with the date the facility came under the provisions of Subchapter K.

Any facility which qualifies and obtains or is currently operating under a certified water quality management plan from the Texas State Soil and Water Conservation Board (TSSWCB) is not considered a CAFO under Subchapter K unless referred to the TNRCC by the TSSWCB for enforcement.

### ***What Are The Differences Between CAFOs Permitted Under Subchapter B/Chapter 116 Versus Subchapter K?***

Subchapter K differs from Subchapter B/Chapter 116 regulations in several ways.



- Consolidates air and water quality permitting processes and requirements;
- Provides consistency with both federal and state requirements;
- Streamlines permitting process, combines administrative and technical review, reduces the amount of additional requests for supplementary information;
- Grants a performance-based permit founded upon development and implementation of a site-specific Pollution Prevention Plan (PPP);
- Requires certification of whether or not any ground and surface water recharge zone/features exists near pollutant sources and devises action towards water quality protection;
- Requires development of a comprehensive final site plan;
- Supports a more efficient and objective public notice and comment procedure based on consideration of only qualified issues that have “technical merit.”

### ***What Areas of Texas are Regulated?***

The rules implemented by TNRCC are designed to protect the quality of the state's air and water resources. All **concentrated** animal feeding operations located in the state, regardless of size, are required to comply with the provisions of Chapter 116, Chapter 321, Subchapters B or K, whichever is applicable.

### ***What are the Dairy Outreach Program Areas?***

These are areas of the state that have been identified as having water quality problems and concerns resulting from point and nonpoint-source (NPS) pollution from animal feeding operations. These areas are involved in the TNRCC's Dairy Outreach Program and include all of ***Erath, Bosque, Hamilton, Comanche, Johnson, Hopkins, Wood and Rains*** counties.

### ***How Are CAFOs Specifically Affected By Air Quality Permitting?***

Any existing CAFO which is currently permitted under the Texas Clean Air Act (TCAA) does not have to meet the air quality permit criteria of Subchapter K. Any new CAFO which meet all the requirements of Subchapter K, including air quality, may obtain written authorization under Subchapter K, in lieu of the requirements to obtain a permit under Chapter 116. Any CAFO which cannot meet the air quality permit requirements of Subchapter K, must obtain a permit pursuant to the TCAA in addition to a water quality authorization under Subchapter K.

### ***How Can A Facility Obtain Written Authorization Under Subchapter K?***

A completed application must be submitted to TNRCC to obtain written authorization for a new facility under Subchapter K. The completed application must include:

- Verified legal status of the applicant;
- Payment of applicable fees;
- Maximum number of animals in confinement;
- Applicant's original signature;
- Final site plan depicting the facility's location and physical aspects;
- County general highway map identifying the general location of the CAFO within its surrounding 1-mile area;
- US Geological Survey map showing land boundaries and any nearby groundwater wells and surface water related to the facility;
- Copy of the facility's PPP;
- Certification of ownership (e.g., deed or tax records);
- A ground and surface water recharge feature certification and a plan demonstrating protection of water quality;
- Area land use map showing prevailing winds and distance and direction to any occupied structures within 1-mile of the facility's permanent odor sources; and
- Location of where the application may be viewed by the public during the public comment period.
- Landowners that may be potentially affected shall be named on the final site plan.

### ***How Is An Application For A Subchapter K Written Authorization Processed?***

- Within fifteen (15) days after the application is received, TNRCC staff will review the application for administrative and technical completeness.
- An identification number is assigned to the application.
- Additional information may be requested if the application fails to demonstrate that it meets requirements in Subchapter K.
- The applicant has 30 days to respond with the requested information.
- When the information submitted satisfies requirements, the application will be declared administratively and technically complete.
- Within five (5) days of declaration, the applicant will publish once in a local newspaper of general circulation a notice stating the intent to obtain a written authorization.
- The TNRCC staff will mail the notice of application to affected adjacent landowners and other affected persons.
- The applicant must also make available a copy of the application to the public for view in the county where the facility is or to be located for a period of 30 days following publication of the notice.
- Once comments are received by TNRCC, the Executive Director will evaluate all comments for "technical merit" issues (i.e., fails to meet requirements under Subchapter K).
- If no comments were received demonstrating technical merit, then an authorization is issued to the applicant.

### ***What Fees Are Required To Obtain Authorization Under Subchapter K?***

A fee of \$350 must be submitted with each application for authorization. Annual fees include a waste treatment inspection fee of \$350 plus a water quality assessment fee of \$300. These fees are in accordance with the Texas Water Code. This fee schedule is found in Title 30, Texas Administrative Code, Chapter 305 (Subchapter M). All payments shall be sent to TNRCC, P.O. Box 13088, Austin, Texas 78711-3087.

### ***What About Renewal Of An Authorization?***

Authorization is granted for a period of five years. Renewal of an authorization may be granted without a public hearing, provided the following conditions are met.

- There has not been a formal major enforcement action against the facility during the last 36 months;
- There has not been a proposal for a major modification of the written authorization;
- The renewal fee of \$315 has been paid;
- There has been at least one inspection of the facility by TNRCC personnel within 12 months prior to the renewal application being filed (applies to Dairy Outreach Areas only); and
- The renewal application has been made at least 180 days before the expiration date of the effective authorization, unless granted permission for a later submittal by the Executive Director.

### ***What About Amendment Of A Written Authorization?***

Any request for a change in term, condition or provision of an authorization and/or a modification of the final site plan will require the permittee to file an application in accordance with application requirements for obtaining a written authorization under Subchapter K.

### ***Where To Obtain Assistance?***

For facilities not requiring written authorization contact:

Texas State Soil and Water Conservation Board (TSSWCB)  
PO Box 658  
Temple, Texas 76503  
800/792-3485  
817/ 773-2250  
FAX 817/773-3311

or

United States Department of Agriculture  
Natural Resources Conservation Service (NRCS)  
101 South Main  
W.R. Poage Federal Building  
Temple, Texas 76501-7682  
817/774-1214

For facilities requiring written authorization:

Application packages and more information on the TNRCC's animal waste management can be obtained from the Agriculture Permitting program. Please write or call the TNRCC Agriculture Section, Agriculture and Watershed Management Division (MC-158), P.O. Box 13087, Austin, Texas 78711-3087 or 512/239-1413. For local assistance, please contact the TNRCC's regional office nearest you.

### **TNRCC Regions**

#### **1 - Amarillo**

3918 Canyon Drive  
Amarillo, Texas 79109-9545  
806/353-9251

#### **2 - Lubbock**

4630 50th Street, Suite 600  
Lubbock, Texas 79414-3509  
806/796-7092

#### **3 - Abilene**

209 South Danville, Suite 200B  
Abilene, Texas 79605  
915/698-9674

#### **4 - Arlington**

1019 North Duncanville Rd.  
Duncanville, Texas 75116-2201  
214/298-6171

or Air Program

6421 Camp Bowie Blvd, Suite 312

Ft. Worth, Texas 76116  
903/732-5531

**5 - Tyler**

11406 Hwy. 64 East  
Rt. 14, Box 254  
Tyler, Texas 75707  
903/566-0476

or Air Program

1304 South Vine Ave.  
Tyler, Texas 75701  
903/595-2639

**6 - El Paso**

7500 Viscount Blvd., Suite 147  
El Paso, Texas 79925  
915/778-4576

**7 - Odessa**

2626 J.B. Shepperd Parkway Blvd.  
Bldg. B-101  
Odessa, Texas 79761  
915/362-6997

**8 - San Angelo**

301 West Beauregard Ave., Suite 202  
San Angelo, Texas 76903  
915/655-9479

**9 - Waco**

6801 Sanger Ave., Suite 2500  
Waco, Texas 76710-7807  
817/751-0335

**10 - Beaumont**

3870 Eastex Freeway, Suite 110  
Beaumont, Texas 77703-1830  
409/898-3838

**11 - Austin**

1921 Cedar Bend, Suite 150  
Austin, Texas 78758

512/339-2929

**12 - Houston**

5425 Polk Street, Suite H  
Houston, Texas 77023-1423  
713/767-3500

**13 - San Antonio**

140 Heimer Rd., Suite 360  
San Antonio, Texas 78232-5042  
210/490-3096

**14 - Corpus Christi**

4410 Dillon Ln., Suite 47  
Corpus Christi, Texas 78415-5326  
512/851-8484

or Air Program

1231 Agnes St., Suite 103  
Corpus Christi, Texas 78401  
512/882-5828

**15 - Harlingen**

134 E. Van Buren, Suite 301  
Harlingen, Texas 78550  
210/425-6010

or Air Program

Matz Bldg., Room 204  
513 East Jackson  
Harlingen, Texas 78550  
210/425-6010